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6 Attorneys for the Uni-Ter Defendants

7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 J.M. WOODWORTH RISK RETENTION
10 GROUP, INC., a Nevada Captive Corporation,

11 Plaintiff,

12 v.

13 UNI-TER UNDERWRITING MANAGEMENT
14 CORPORATION, a Delaware Corporation;
UNI-TER RISK MANAGEMENT SERVICES
15 CORPORATION, a Delaware Corporation;
UNI-TER CLAIMS SERVICES
16 CORPORATION, a Delaware Corporation; and
US RE AGENCIES, INC., a Delaware
17 Corporation; STATE OF NEVADA, DIVISION
OF INSURANCE OF THE DEPARTMENT OF
18 BUSINESS AND INDUSTRY; DOES 1 through
X; and ROE ENTITIES XI through XX,

19 Defendant.

Case No.: 2:13-cv-00911-JAD-PAL

**PISANELLI BICE, PLLC'S
EMERGENCY MOTION TO
WITHDRAW AS COUNSEL**

20 Pisanelli Bice, PLLC ("Pisanelli Bice"), counsel for Defendants Uni-Ter Underwriting
21 Management Corporation, Uni-Ter Risk Management Services Corporation, Uni-Ter Claims
22 Services Corporation and US Re Agencies, Inc. (collectively the "Uni-Ter Defendants"), hereby
23 submits its Emergency Motion to Withdraw as Counsel (the "Motion"). The Uni-Ter Defendants
24 have not satisfied their obligations and responsibilities owed to Pisanelli Bice arising out of its
25 representation in this matter and have indicated they do not intend to honor those responsibilities
26 in the future. As a result, good cause exists to allow Pisanelli Bice to withdraw from
27 representation to avoid imposing an unreasonable financial burden on the firm. Good cause also
28 exists to hear this matter on an emergency basis to allow Pisanelli Bice to withdraw and to allow

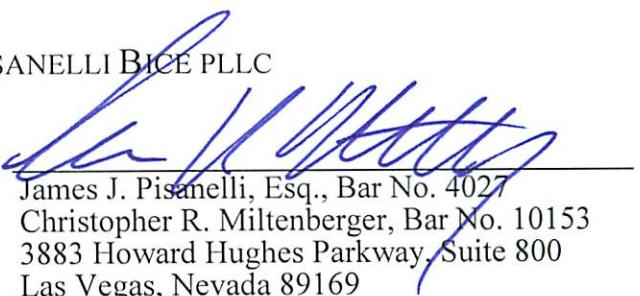
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1 the Uni-Ter Defendants to secure alternative counsel in light of the pending issues before the
2 Court.

3 This Motion is made and based on Local Rules LR IA 10-6 and LR 7-5 and Nevada Rule
4 of Professional Conduct 1.16. The Motion is supported by the following Memorandum of Points
5 and Authorities, the Affidavit of Christopher R. Miltenberger, Esq. attached hereto as Exhibit A,
6 the papers and pleadings on file herein, and any and all oral argument the Court may entertain.

7 DATED this 14th day of January, 2014.

8 PISANELLI BICE PLLC
9

10 By 
11 James J. Pisanello, Esq., Bar No. 4027
12 Christopher R. Miltenberger, Bar No. 10153
13 3883 Howard Hughes Parkway, Suite 800
14 Las Vegas, Nevada 89169

15 *Attorneys for the Uni-Ter Defendants*
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Local Rule LR IA 10-6(b) allows an attorney to withdraw as counsel of record for a party
3 by leave of court. Further, LR IA 10-6(e) provides that "[e]xcept for good cause shown, no
4 withdrawal or substitution shall be approved if delay or discovery, the trial or any hearing in the
5 case would result." Similarly, the Nevada Rules of Professional Conduct permit a lawyer to
6 withdraw from representing a client when "[w]ithdrawal can be accomplished without material
7 adverse effect on the interests of the client" or upon a showing of good cause. NRPC 1.16(b)(1),
8 (7). Specifically as it pertains to this instant Motion, Nevada Rule of Professional Conduct
9 1.16(b) permits withdrawal in the following situations:

10 (5) The client fails substantially to fulfill an obligation to the
11 lawyer regarding the lawyer's services and has been given
reasonable warning that the lawyer will withdraw unless the
obligation is fulfilled;

12 (6) The representation will result in an unreasonable financial
13 burden on the lawyer or has been rendered unreasonably difficult by
the client;

15 NRPC 1.16(b)(5), (6).

16 As reflected in the attached affidavit of Christopher R. Miltenberger, Esq., good cause
17 exists to permit Pisanelli Bice to withdraw from representing the Uni-Ter Defendants in this
18 action. (Ex. A, Miltenberger Aff.) The Uni-Ter Defendants have failed to fulfill their obligations
19 to Pisanelli Bice despite being given reasonable warning that the firm would seek to withdraw if
20 those obligations were not met. (*Id.* at ¶¶ 4-7.) As such, continued representation of the Uni-Ter
21 Defendants will result in an unreasonable financial burden on the firm. (*Id.* at ¶ 8.)

22 Moreover, the Uni-Ter Defendants will not suffer any material adverse effect from the
23 withdrawal nor will it result in any delay of discovery, the trial, or any hearing in this case. *See*
24 LR IA 10-6(e); (Ex. A, Miltenberger Aff., at ¶ 9). This matter is not currently set for trial. (*Id.*)
25 In fact, the majority of this action is stayed pending a related arbitration. (*Id.*) While this Court
26 has directed supplemental briefing relating to Plaintiff's pending Motion to Remand, the parties
27 have stipulated to an extension of the deadlines for the Uni-Ter Defendants to submit their
28 supplemental briefing. (*Id.*) Likewise, the Uni-Ter Defendants have retained out-of-state lead

1 counsel to manage this matter and the related arbitration proceedings who simply needs to retain
2 separate local counsel to submit his *pro hac vice* petition.¹ (*Id.*) Therefore, good cause exists to
3 permit withdrawal as the Uni-Ter Defendants' rights are adequately protected, they will not suffer
4 any material adverse effect from withdraw, and the withdrawal will not result in any delay in any
5 discovery, trial, or hearing in this action.

6 Based on the foregoing, Pisanelli Bice requests that the Court grant this Motion and enter
7 an order allowing Pisanelli Bice to withdraw as counsel of record for the Uni-Ter Defendants' in
8 this matter.

9 DATED this 14th day of January, 2014.

10 PISANELLI BICE PLLC

11 By 

12 James J. Pisanelli, Esq., Bar No. 4027
13 Christopher R. Miltenberger, Bar No. 10153
14 3883 Howard Hughes Parkway, Suite 800
15 Las Vegas, Nevada 89169

16 *Attorneys for the Uni-Ter Defendants*

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27 _____
28 ¹ A copy of this Motion is being served on opposing counsel, the client representatives, and
on the Uni-Ter Defendants' lead out-of-state counsel, Alan Feldman of Lydecker Diaz.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee of PISANELLI BICE PLLC, and that on this 14 day of January, 2014, I electronically filed the above and foregoing **PISANELLI BICE, PLLC'S EMERGENCY MOTION TO WITHDRAW AS COUNSEL** using the Court's CM/ECF system which will send notification to the following:

Constance L. Akridge, Esq.
Leslie M. Nino, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiff J.M. Woodworth Risk Retention Group, Inc.

I, the undersigned, hereby certify that I am employee of PISANELLI BICE PLLC, and that on this 14 day of January, 2014, I caused to be sent via e-mail and United States Mail, postage prepaid, a true and correct copy of the above and foregoing **PISANELLI BICE, PLLC'S EMERGENCY MOTION TO WITHDRAW AS COUNSEL** properly addressed to the following:

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An employee of PISANELLI BICE PLLC